



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/896,548	06/29/2001	Adrianus Josephes van den Nieuwelaar	V0028/260425	4345

23370 7590 06/04/2003

JOHN S. PRATT, ESQ  
KILPATRICK STOCKTON, LLP  
1100 PEACHTREE STREET  
SUITE 2800  
ATLANTA, GA 30309

EXAMINER

FRANK, ELLIOT L

ART UNIT

PAPER NUMBER

2125

DATE MAILED: 06/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/896,548

Applicant(s)

VAN DEN NIEUWELAAR ET AL.

Examiner

Elliot L Frank

Art Unit

2125

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 June 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All   b) ☐ Some \*   c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Priority***

- ✓ 1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Specification***

- ✓ 2. The disclosure is objected to because of the following informalities:
- ✓ a. Page 7, line 35: The word "sump" should be replaced with "stump".
- Appropriate correction is required.
- ✓ 3. The errors noted by the examiner may not constitute all of the aberrations in the specification. The applicant is encouraged to thoroughly review the specification and correct any informality encountered.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1,5,6 and 10-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Montanari et al. (USPN 5,478,990 A).

The limitations of the aforementioned claims, and the relevant citations in Montanari et al. are as follows:

Art Unit: 2125

1. A method for processing a slaughter product (column 1, lines 7-12)

comprising:

providing at least one processing station for performing at least one processing on the slaughter product, wherein at least one parameter of the processing is adjustable (column 8, lines 20-34);

recording property data relating to at least one property of the slaughter product (column 8, lines 35-45);

recording relationship data relating to at least one relationship between parameter data relating to the at least one parameter of the processing and the property data;

recording demand data relating to at least one desired property of the slaughter product (relationship and demand data are discussed at column 11, lines 17-44);  
and

controlling the processing of the slaughter product by adjusting the at least one parameter of the processing on the basis of at least part of the property data, the relationship data, and the demand data (column 13, lines 49-67).

5. the method of claim 1, further comprising: controlling the processing of the slaughter product by selecting a routing for the processing of the slaughter product on the basis of at least part of the property data, relationship data, and the demand data (column 13, lines 49-67).

Claims 6 and 10 for a device include the same functional limitations as claims 1 and 5, and therefore are anticipated by the same citations in Montanari et al.

11. The device of claim 6, wherein the slaughter product property recording means comprise: a data input means for inputting data relating to the slaughter product; and a data-processing system connected to the data input means (column 4, lines 11-52).

12. The device of claim 6, wherein the slaughter product property recording means comprises: first weighing means for weighing the slaughter product prior to a processing; second weighing means for weighing the slaughter product after the processing; and a data-processing system for recording weight data determined by the first and second weighing means (column 13, lines 1-17).

The limitations of claims 1,5,6 and 10-12 are read completely in Montanari et al.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 2,3,7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Montanari et al. (USPN 5,478,990 A) in view of Haagensen (USPN 6,104,966 A).

Claims 2 and 3 depend from claim 1. Claims 7 and 8 depend from claim 6.

Claims 1 and 6 have been shown to be anticipated by Montanari et al.

While Montanari does read on the computerized slaughter control system of the instant invention, it does not read upon the additional specific requirements of claims 2 and 3 as follows:

2. The method of claim 1, further comprising: recording data that indicates the availability of the at least one processing station.

3. The method of claim 1, further comprising: recording data that indicates the availability of the slaughter product.

Haagensen et al., analogous to Montanari in that both systems deal with computer controlled slaughter processing (Haagensen, column 1, lines 11-36), reads on the additional limitations of claims 2 and 3 at column 7, line 63-column 8, line 62 wherein it describes a processing system that anticipates the location of slaughter product combined with sensors feeding back the actual position of slaughter product, which allows the system to know the status both of the processing stations and the product to be processed.

Claims 7 and 8 for a device contain the same functional limitations as claims 2 and 3, and are therefore obvious in view of the same citations in the combined references.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have combined the elements of Haagensen into the Montanari system to have allowed for the tracking of carcasses and primals starting at the killing floor throughout the processing plant (Haagensen, column 2, lines 22-53).

8. Claims 4 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Montanari et al. (USPN 5,478,990 A) in view of Baker et al 5,226,118).

Claim 4 depends from claim 1. Claim 9 depends from claim 6. Claims 1 and 6 have been shown to be anticipated by Montanari et al.

While Montanari does read on the computerized slaughter control system of the instant invention, it does not read upon the additional specific requirements of claim 4 as follows:

4. The method of claim 1, further comprising: recording data that indicates the availability of the at least one staff member at the at least one processing station.

Baker, a system generally applicable to any computer controlled process (Baker et al., column 1, lines 39-52) reads on the requirements of claim 4 at column 10, lines 22-39 wherein an operator availability data structure is described.

Claim 9 for a device contains the same functional limitations as claim 4, and is therefore obvious in view of the same citations in the combined references.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have combined the elements of Baker et al. into Montanari et al. to have created a process system including a database management and analysis tool with simple control and display functions (Baker et al., column 1, lines 22-32).

9. Claims 13-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Montanari et al. (USPN 5,478,990 A) in view of Ripol et al. (USPN 5,401,209 A).

Claims 13-33 depend from claim 6. Claim 6 has been shown to be anticipated by Montanari et al.

While Montanari does read on the computerized slaughter control system of the instant invention, it does not read upon the additional specific requirements of claim 13 as follows:

13. The device of claim 6, wherein the processing station is a stunning station comprising:

a stunning device for stunning the slaughter product, wherein the processing parameter adjustment means is adapted to adjust a parameter of a stunning process carried out by the stunning device; and a data-processing system for controlling the processing parameter adjustment means.

Ripol et al., analogous to Montanari et al. in that both are systems for computer controlled slaughter processing (column 1, lines 10-16), reads on the additional requirements of claim 13 at column 12, line 32-column 13, line 20 wherein a computer controlled stunning process is described.

Claims 14-20 require a similar computerized control system applied to the following well-known animal slaughter processes including: exsanguinations, scalding, massage, buffer, head-pulling, cutting, rolling, waste removal, conveying, correction, cooling, packaging, positioning and oven control. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have



Art Unit: 2125

applied computer control to the aforementioned process in the same manner as the process described in Ripol et al. to have improved the quality of the process where high throughput is required (Ripol et al., column 1 lines 18-34).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have combined the elements of Ripol et al. into the Montanari system to have created an animal processing system including a stunning element that improves both productivity and quality (Ripol et al., column 3, lines 19-50).

10. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

### ***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

USPN 4,941,349 – Gasbarro – Meat portion control system

USPN 5,668,634 A – Newman – Meat quality control system

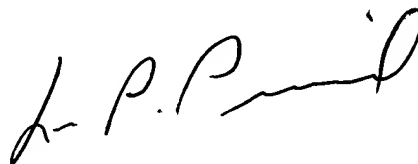
Art Unit: 2125

USPN 5,964,656 A – Lawler, Jr. et al. – Slaughter processing system

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elliot L Frank whose telephone number is (703) 305-5442. The examiner can normally be reached on M-F 7-4:30, 1st Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leo P Picard can be reached on (703) 308-0538. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 746-7239 for regular communications and (703) 746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-5484.



ELF  
June 1, 2003

LEO PICARD  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100